

UNITED STATES DISTRICT COURT
for the
District of Massachusetts

WEST COAST PRODUCTIONS, INC.
, plaintiff

v.

PAUL DUFFANY
, defendant

No. 1:12-CV-10218-WGY

ANSWER FOR PAUL DUFFANY

Now comes the Defendant in the above-entitled action and hereby submits the following answers, each corresponding to the numbered paragraphs in the complaint filed on behalf of the plaintiffs in the above entitled action:

1. Does not require an answer by the Defendant.
2. Insufficient information, Defendant neither admits nor denies.
3. Denied.
4. Insufficient information, Defendant neither admits nor denies.
5. Admit.
6. Does not require an answer by the Defendant.
7. Insufficient information, Defendant neither admits nor denies.
8. Insufficient information, Defendant neither admits nor denies.
9. Insufficient information, Defendant neither admits nor denies.
10. Denied.
11. Denied.
12. Denied.
13. Denied.
14. Denied.

1 WHEREFORE, Defendant respectfully requests that this action be dismissed.

2
3 **II. AFFIRMATIVE DEFENSES**
4

5 1. FIRST: Defendant denies each and every material allegation of the complaint not
6 specifically admitted, denied, or controverted above.

7 2. SECOND: Defendant states that the complaint in the above-entitled matter fails to
8 state a claim upon which relief may be granted.

9 3. THIRD: Defendant states that if plaintiff has sustained any damages, those damages
10 are attributable to parties for whom Defendant is not legally responsible.

11 4. FOURTH: Defendant asserts that plaintiff's recovery is barred by 17 U.S.C. § 512.

12 5. FIFTH: Defendant states that plaintiff's recovery is barred by the doctrine of
13 collateral estoppel.

14 6. SIXTH: Defendant states that plaintiff's recovery is barred by the doctrine of laches.

15 7. SEVENTH: Defendant states that plaintiff's recovery is barred by the doctrine of
16 unclean hands.

17 8. EIGHTH: Defendant states that plaintiff's recovery is barred its own waiver.

18 9. NINTH: Defendant states that plaintiff's recovery is barred by its failure to join
19 necessary parties.

20 10. TENTH: Defendant states that plaintiff's recovery is barred by defective service of
21 process.

22 11. ELEVENTH: Defendant states that plaintiff's recovery is barred because the work
23 at issue is not entitled to copyright protection.

24
25 WHEREFORE, Defendant respectfully requests this honorable court dismiss each and
26 every claim asserted by Plaintiff's complaint, and enter judgment for Defendant together with
27 costs, attorney's fees, and such other and further relief as the court deems just and proper.

III. COUNTERCLAIMS

Defendant hereby states the following counterclaims for damages against Plaintiff:

COUNT ONE: Violation of Electronic Communications Privacy Act (18 U.S.C. § 2520)

12. Plaintiffs obtained the internet addresses (IP Addresses) associated with Defendant's internet service account.

13. Such IP Addresses were obtained by Plaintiff prior to its engaging in legal action pursuant to 17 U.S.C. § 512.

14. Upon information and belief, such IP Addresses were only accessible to plaintiff, under the circumstances, if plaintiff either (a) participated in the conspiracy it alleges, or (b) plaintiff eavesdropped on the communications to which it was not a party.

15. Upon information and belief, Plaintiffs intentionally intercepted, endeavored to intercept, or procured another to intercept or endeavor to intercept a wire, oral or electronic communication, in violation of 18 U.S.C. § 2511(1)(a) in its unlawful investigation in this case.

16. Upon information and belief, Plaintiffs intentionally disclosed, or endeavored to disclose to another person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of 18 U.S.C. § 2511(1) in its unlawful investigation in this case.

17. Upon information and belief, Plaintiffs intentionally used, or endeavored to use, the contents of a wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of 18 U.S.C. § 2511(1).

18. Such violations occurred on or about November 17, 2010 at 12:59 PM.

COUNT TWO: Counterclaim for Costs and Attorney Fees Pursuant to 17 U.S.C. § 505

1
2 19. Defendant realleges and incorporates the allegations made in each above
3 paragraph.

4 20. Defendant hereby counterclaims for the recovery of full costs, including reasonable
5 attorney's fees, in the event that Defendant is the prevailing party.

6
7 COUNT THREE, Violation of Massachusetts Wiretap Act (M.G.L.c. 272, § 99)

8 21. Defendant realleges and incorporates the allegations made in each above paragraph.

9 22. Plaintiffs obtained the internet addresses (IP Addresses) associated with Defendant's
10 internet service account.

11 23. Such IP Addresses were obtained by Plaintiff prior to its engaging in legal action
12 pursuant to 17 U.S.C. § 512.

13 24. Upon information and belief, such IP Addresses were only accessible to plaintiff,
14 under the circumstances, if plaintiff either (a) participated in the conspiracy it alleges, or (b)
15 plaintiff eavesdropped on the communications to which it was not a party.

16 25. Upon information and belief, Plaintiffs willfully intercepted, endeavored to
17 intercept, or procured another to intercept or endeavor to intercept a wire or oral
18 communication, in violation of M.G.L. 272, § 99 in its unlawful investigation in this case.

19 26. Upon information and belief, Plaintiffs willfully disclosed, or endeavored to
20 disclose to another person the contents of a wire or oral communication, knowing or having
21 reason to know that the information was obtained through the interception of a wire, oral, or
22 electronic communication in violation of M.G.L. c. 272, § 99 in its unlawful investigation in
23 this case.

24 27. Upon information and belief, Plaintiffs willfully used, or endeavored to use, the
25 contents of a wire or oral communication, knowing or having reason to know that the
26 information was obtained through the interception of a wire, oral, or electronic communication
27 in violation of 18 U.S.C. § 2511(1).

28. Such violations occurred on or about November 17, 2010 at 12:59 PM.

IV. DEFENDANTS REQUESTED RELIEF

Defendant hereby prays this honorable court enter the following relief for the claims stated above.

29. Statutory damages in an amount to be determined, according to 18 U.S.C. 2520, in the amount of either \$100 a day for each day of violation, or \$10,000 for each violation.

30. Statutory damages in an amount to be determined, according to M.G.L.c. 272, § 99Q, in the amount of actual damages but not less than liquidated damages computed at the rate of \$100 per day for each day of violation or \$1000, whichever is higher; punitive damages; and reasonable attorney's fees and other litigation disbursements reasonably incurred.

31. Recovery of full costs, including reasonable attorney's fees pursuant to 17 USC § 505 and M.G.L.c. 272, § 99Q.

32. Such other and further relief as the court deems just and proper.

V. DEMAND FOR JURY TRIAL

Now comes the Defendant in the above entitled matter, and hereby demands a jury trial on both the complaint submitted by the plaintiff, as well as on the counterclaims asserted above.

Respectfully submitted,
Defendant
By his Attorney,

/S/

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Dated: Monday, February 27, 2012

CERTIFICATE OF SERVICE

I hereby certify that on Monday, February 27, 2012, the foregoing document, together with all documentary exhibits was filed through the ECF system and electronically sent to all registered participants as identified on the Notice of Electronic Filing as of the day and time of filing.

Dated: Monday, February 27, 2012

Signature: /S/